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RR RUEHWEB

DE RUEHEK #1604/01 3181100
ZNR UUUUU ZZH
R 141100Z NOV 06
FM AMEMBASSY BISHKEK
TO RUEHC/SECSTATE WASHDC 8542
INFO RUEAWJA/DEPT OF JUSTICE WASHDC
RUEATRS/DEPT OF TREASURY WASHDC

UNCLAS BISHKEK 001604

SIPDIS

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STATE FOR INL
STATE FOR SCA/CEN
JUSTICE FOR AFMLS, OIA, AND OPDAT
TREASURY FOR FINCEN AND EB/ESC/TFS

E.O. 12958: N/A

TAGS: [KCRM](#) [EFIN](#) [KTFN](#) [PGOV](#) [KG](#)

SUBJECT: KYRGYZSTAN: 2006-2007 INSCR, PART II, FINANCIAL
CRIMES AND MONEY LAUNDERING

Ref: STATE 157000

11. (U) No report was published for Kyrgyzstan in last year's International Narcotics Control Strategy Report, Part II, Financial Crimes and Money Laundering. This is a new report for Kyrgyzstan. Embassy point of contact for this report is Resident Legal Advisor Irfan Saeed, e-mail: SaeedIA@state.gov.

12. (SBU) Follow is Embassy Bishkek's submission for the 2006-2007 INSCR, Part II.

Begin Text:

The Kyrgyz Republic is not a regional financial center. Although Kyrgyzstan adopted a new anti-money laundering statute in 2006, gaps still exist in enforcement and implementation. The new law has not been tested in court. The Kyrgyz banking system remains comparatively underdeveloped. Like other countries in the region, the Kyrgyz Republic's alternative remittance systems are susceptible to money laundering activity or trade-based fraud. The smuggling of consumer goods, tax and tariff evasion, official corruption and narcotics trafficking continue as the major sources of illegal proceeds within the Kyrgyz Republic. The lack of political will, resource constraints, inefficient financial systems, and, of course, corruption, all serve to stifle efforts to effectively combat money laundering and terrorist financing.

Money Laundering/Terrorist Financing primarily occurs in the banking system. Oversight of the banking sector is generally weak, and Kyrgyz law enforcement agencies lack the expertise and resources necessary to effectively monitor and investigate financial irregularities. Kyrgyzstan is not considered an offshore financial center, nor does it have a free trade zone.

In June 2006, the Kyrgyz Republic adopted a fairly comprehensive law on "Counteracting Terrorist Financing and Legalization (Money Laundering) of Proceeds from Crime". The law defines predicate offenses and criminalizes income obtained as a result of a criminal action. Criminal action is further defined as the commission of any act designated a crime by the Criminal Code of Kyrgyzstan. The statutory threshold amount that triggers mandatory reporting is US\$25,000. The money laundering law also includes secrecy provisions that mandate civil and criminal liability for

disclosure of client and ownership information, as well as for abuse of official position, which safeguards effective reporting. It also requires mandatory reporting of suspicious transactions, in addition to a five-year record retention by all Kyrgyz financial institutions. In its current form, the effective date of implementation for the new law is November 8, 2006.

The money laundering controls are applied equally to all banking and non-banking financial institutions, to include banks, credit institutions, stock brokerages, foreign exchange offices, casinos, insurance companies, etc., and to intermediaries, such as lawyers and accountants. The new law mandates that all such entities report threshold amount transactions as well as all suspicious transactions. The one exception appears to be automobile dealers. At this point, automobile dealers are not required to report any high dollar transactions.

Chapter III of the money laundering law establishes a financial intelligence service, a state body authorized to collect and analyze financial intelligence. The financial intelligence service will collect and analyze information related to financial transactions; develop and implement measures on improving systems of prevention, detection, and suppression of suspicious transactions; and submit instituted cases to law enforcement, the prosecutor's office, and to the court for investigation and prosecution.

Implementation of the financial intelligence service has been slow. Resources are inadequate, and the unit does not yet have the expertise, knowledge, or resources to become a functioning and effective entity to combat money laundering and terrorist financing. Criticism of the new law is focused in two areas. First, experts claim the law does not

actually criminalize money laundering, only the actions surrounding illegal proceeds of a crime. Thus, the new law is not FATF (Financial Action Task Force) compliant. Second, experts also claim the threshold amount is set too high, US\$25,000, which is extraordinarily high compared to the income standards of the average Kyrgyz. These deficiencies have been discussed in working group form, but have not been addressed in amendment form to date.

Current laws, as well as pending legislation, do not address the issue of asset forfeiture. In this respect, Kyrgyz law does not address avenues for seizing and forfeiting assets derived from criminal activity. Existing criminal laws do provide for fines and levies against property, but do not address mechanisms to actually seize assets or property.

Regarding international cooperation, chapter IV of the new money laundering law does provide for an international exchange of information and legal assistance. The law mandates that the new financial intelligence service, in compliance with international treaty obligations, collaborate with foreign counterparts in financial intelligence and terrorist financing matters.

The Kyrgyz Republic remains an active member of the Eurasian Group (EAG) on combating money laundering and financing of terrorism, a FATF (financial action task force) regional body designed to coordinate technical assistance and analyze trends in money laundering techniques. The EAG will undertake a comprehensive evaluation and review of relevant Kyrgyz legislation regarding financial crimes.

The Kyrgyz Republic, along with Russia, China, Belarus, Tajikistan, and Kazakhstan, formed the Eurasian Group for Counteraction to the Legalization of Illegal Incomes and Terrorism Financing. The Kyrgyz Republic is a party to the 1988 UN Convention of Narcotics and Psychotropic Substances, the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. The Kyrgyz Republic has also signed, and ratified, the UN Convention against Corruption.

The Government of the Kyrgyz Republic should continue to strengthen legislation as it relates to money laundering and financial crimes that support terrorist organizations, both within financial institutions and with those activities that circumvent financial institutions.

End text.

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